

HOUSE BILL No. 1184

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-22-2-37.1; IC 9-24-18-7; IC 10-19-11; IC 20-33-3; IC 35-43-5.

Synopsis: Various immigration related matters. Establishes the 287(g) agreement grant program. Allows the department of homeland security to provide grants to certain police enforcement agencies. Prohibits a child more than 12 years of age but less than 14 years of age from working as a farm laborer unless the farm is owned by a person who is related to the child by blood, marriage, or adoption. Increases civil penalties for violations of certain age labor laws. Provides that: (1) a person who counterfeits or falsely reproduces a driver's license with intent to use the license or to permit another person to use the license commits a Class D felony (instead of a Class B misdemeanor); and (2) a person who knowingly or intentionally produces or distributes a document that is not issued by a government entity and that purports to be a government issued identification commits a Class C felony (instead of a Class A misdemeanor). Makes making or distributing a forged instrument a Class B felony. Appropriates \$10,000,000 to the department of education from the state general fund for each year of the biennium beginning July 1, 2009, and ending June 30, 2011. Appropriates \$5,000,000 to the department of homeland security from the state general fund for each year of the biennium beginning July 1, 2009, and ending June 30, 2011.

Effective: July 1, 2009.

Murphy

January 12, 2009, read first time and referred to Committee on Interstate and International Cooperation.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1184

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-22-2-37.1, AS AMENDED BY P.L.90-2008,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 37.1. (a) This section applies to a rulemaking
4 action resulting in any of the following rules:

5 (1) An order adopted by the commissioner of the Indiana
6 department of transportation under IC 9-20-1-3(d) or
7 IC 9-21-4-7(a) and designated by the commissioner as an
8 emergency rule.

9 (2) An action taken by the director of the department of natural
10 resources under IC 14-22-2-6(d) or IC 14-22-6-13.

11 (3) An emergency temporary standard adopted by the
12 occupational safety standards commission under
13 IC 22-8-1.1-16.1.

14 (4) An emergency rule adopted by the solid waste management
15 board under IC 13-22-2-3 and classifying a waste as hazardous.

16 (5) A rule, other than a rule described in subdivision (6), adopted
17 by the department of financial institutions under IC 24-4.5-6-107



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and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

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(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the department of homeland security under IC 10-19-11-5. This subdivision expires July 1, 2011.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

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(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

- (1) accept the rule for filing; and
- (2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

- (1) The effective date of the statute delegating authority to the agency to adopt the rule.
- (2) The date and time that the rule is accepted for filing under subsection (e).
- (3) The effective date stated by the adopting agency in the rule.
- (4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

- (1) sections 24 through 36 of this chapter; or

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(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 2. IC 9-24-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. A person who counterfeits or falsely reproduces a driving license with intent to use the license or to permit another person to use the license commits a ~~Class B misdemeanor~~. **Class D felony.**

SECTION 3. IC 10-19-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 11. 287(g) Agreement Program Grants

Sec. 1. As used in this chapter, "287(g) agreement" refers to an agreement entered into under Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)).

Sec. 2. As used in this chapter, "program" refers to the 287(g) agreement grant program established by section 3 of this chapter.

Sec. 3. (a) The 287(g) agreement grant program is established.

(b) The department shall administer the program.

Sec. 4. The department may provide a grant under the program to assist a law enforcement agency (as defined in IC 5-2-17-2) in entering into and carrying out law enforcement under a 287(g) agreement.

Sec. 5. The department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, necessary for the administration of the program.

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Sec. 6. This chapter expires July 1, 2011.

SECTION 4. IC 20-33-3-31, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) A child less than:

(1) fourteen (14) years of age may not be employed or allowed to work in any gainful occupation except as a:

(A) farm laborer **on a farm owned by a person related to the child by blood, adoption, or marriage;**

(B) domestic service worker;

(C) caddie for persons playing the game of golf; or

(D) newspaper carrier; and

(2) twelve (12) years of age may not be permitted to work at farm labor except on a farm operated by the child's parent.

(b) Except as provided in section 32 of this chapter, a person, firm, limited liability company, or corporation may not employ or permit any child less than eighteen (18) years of age to work in any occupation after 7:30 a.m. and before 3:30 p.m. on a school day unless the child presents to the employer a written exception issued by the school that the child attends.

SECTION 5. IC 20-33-3-40, AS AMENDED BY P.L.182-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 40. (a) An individual who is an employer, a firm, a limited liability company, or a corporation that violates this chapter may be assessed the civil penalties described in this section by the department of labor. For an hour violation of more than thirty (30) minutes under sections 22 through 28 of this chapter, each violation of section 30 of this chapter, an age violation under section 31 or 32 of this chapter, each minor employed in violation of section 31(b) of this chapter, or a hazardous occupation violation under section 35 or 36 of this chapter, the civil penalties are as follows:

(1) A warning letter for any violations identified during an initial inspection.

(2) One hundred dollars (\$100) per instance for each violation identified in a subsequent inspection.

(3) Two hundred dollars (\$200) per instance for a third violation that is identified in a subsequent inspection.

(4) Four hundred dollars (\$400) per instance for a fourth or subsequent violation that is identified in an inspection subsequent to the inspection under subdivision (3) and occurs not more than two (2) years after a prior violation.

(b) **For an age violation under section 31 of this chapter, the civil penalties are as follows:**

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(1) A warning letter for any violations identified during an initial inspection.

(2) One thousand dollars (\$1,000) per instance for each violation identified in a subsequent inspection.

(3) Four thousand dollars (\$4,000) per instance for a third violation that is identified in a subsequent inspection.

(4) Ten thousand dollars (\$10,000) per instance for a fourth or subsequent violation that is identified in an inspection after the inspection under subdivision (3) and occurs not more than two (2) years after a prior violation.

SECTION 6. IC 35-43-5-2, AS AMENDED BY P.L.106-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) A person who knowingly or intentionally:

(1) makes or utters a written instrument in such a manner that it purports to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority; or

(2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made:

(A) by another person;

(B) at another time;

(C) with different provisions; or

(D) by authority of one who did not give authority;

commits counterfeiting, a Class D felony.

(b) A person who knowingly or intentionally makes more than one (1) written instrument in such a manner that the written instrument purports to have been made:

(1) by another person;

(2) at another time;

(3) with different provisions; or

(4) by authority of one who did not give authority;

or who knowingly or intentionally distributes such a written instrument commits making or distributing a forged instrument, a Class B felony.

(c) A person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made:

(1) by another person;

(2) at another time;

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(3) with different provisions; or
 (4) by authority of one who did not give authority;
 commits forgery, a Class C felony.

~~(c)~~ **(d)** This subsection applies to a person who applies for a driver's license (as defined in IC 9-13-2-48). A person who:

- (1) knowingly or intentionally uses a false or fictitious name or gives a false or fictitious address in an application for a driver's license or for a renewal or a duplicate of a driver's license; or
- (2) knowingly or intentionally makes a false statement or conceals a material fact or otherwise commits fraud in an application for a driver's license;

commits application fraud, a Class D felony.

~~(d)~~ **(e)** This subsection applies to a person who applies for a state identification card (as issued under IC 9-24-16). A person who:

- (1) knowingly or intentionally uses false information in an application for an identification card or for a renewal or duplicate of an identification card; or
- (2) knowingly or intentionally makes a false statement or otherwise commits fraud in an application for an identification card;

commits application fraud, a Class D felony.

SECTION 7. IC 35-43-5-2.5, AS ADDED BY P.L.109-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. **(a)** A person who knowingly or intentionally possesses ~~produces, or distributes~~ a document not issued by a government entity that purports to be a government issued identification commits a Class A misdemeanor.

(b) A person who knowingly or intentionally produces or distributes a document that is not issued by a government entity and that purports to be a government issued identification commits a Class C felony.

SECTION 8. [EFFECTIVE JULY 1, 2009] **(a)** There is appropriated to the department of education ten million dollars (\$10,000,000) from the state general fund for the non-English speaking program for pupils who have a primary language other than English and limited English proficiency, as determined by using a standard proficiency examination that has been approved by the department of education, for the state fiscal year beginning July 1, 2009, and ending June 30, 2010.

(b) There is appropriated to the department of education ten million dollars (\$10,000,000) from the state general fund for the non-English speaking program for pupils who have a primary

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1 language other than English and limited English proficiency, as
 2 determined by using a standard proficiency examination that has
 3 been approved by the department of education, for the state fiscal
 4 year beginning July 1, 2010, and ending June 30, 2011.

5 (c) This SECTION expires July 1, 2011.

6 SECTION 9. [EFFECTIVE JULY 1, 2009] (a) As used in this
 7 SECTION, "department" means the department of homeland
 8 security established by IC 10-19-2-1.

9 (b) As used in this SECTION, "program" refers to the 287(g)
 10 agreement grant program established by IC 10-19-11-3.

11 (c) There is appropriated to the department five million dollars
 12 (\$5,000,000) from the state general fund for the program for the
 13 state fiscal year beginning July 1, 2009, and ending June 30, 2010.

14 (d) There is appropriated to the department five million dollars
 15 (\$5,000,000) from the state general fund for the program for the
 16 state fiscal year beginning July 1, 2010, and ending June 30, 2011.

17 (e) This SECTION expires July 1, 2011.

18 SECTION 10. [EFFECTIVE JULY 1, 2009] IC 9-24-18-7,
 19 IC 35-43-5-2(b), and IC 35-43-5-2.5, all as amended by this act,
 20 apply only to crimes committed after June 30, 2009.

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